

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10

FEA-01 ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00

CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01

ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00

L-03 NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

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TO SECSTATE WASHDC PRIORITY 8621

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FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS: INFORMAL PLENARY ON DISPUTE SETTLEMENT AUG. 10

1. USSR CONTINUED DEBATE ON ARTICLE 9 (CHOICE OF FORUM) WITH RIGOROUS AND LENGTHY STATEMENT MAKING IT CLEAR THAT SPECIAL PROCEDURE CONTAINED IN ANNEX II MUST BE INCLUDED OR USSR WILL BE UNABLE TO SUPPORT COMPULSORY DISPUTE SETTLEMENT EXCEPT AS OPTIONAL PROTOCOL. SOVIET REMARKS WERE LIMITED TO ART. 9, PARA 1 FOR TIME BEING, LEAVING IT UNCLEAR HOW USSR WOULD DEAL WITH COMPETENT FORUM WHERE DECLARATIONS DIFFER AND COMPETENT FORUM WHERE NO DECLARATION IS MADE. DURING REMARKS, SOVIETS POINTED OUT THAT ONLY 45 STATES HAVE ACCEPTED COMPULSORY SETTLEMENT PROCEDURES WHILE 33 HAVE ACCEPTED OPTIONAL PROTOCOLS, LEADING TO A FEAR RATIFICATIONS OF LOS TREATY WOULD BE FEW IF CDS INCLUDED. EMPHASIS WAS PLACED ON COMPATIBILITY OF SOCIALIST SYSTEM WITH SPECIAL PROCEDURES AND NOT, REPEAT, NOT ICJ, CRITICISING RESERVATIONS RESPECTING MATTERS UNDER NATIONAL

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JURISDICTION AS INCOMPATIBLE WITH OBJECTIVES OF LOST TREATY, OR

LOS TRIBUNAL, WHICH HAS ONLY TWO SOCIALIST MEMBERS AND THEREFORE
CANNOT BE CONSIDERED QTE INTERNATIONAL UNQTE.

2. ECUADOR SAID ART. 9 SHOULD REFLECT PRINCIPLE OF
CHOICE LIMITED TO ICJ, ARBITRATION, AND LOS TRIBUNAL,
AND OPPOSED ANY EFFORT TO SINGLE OUT ARBITRATION SINCE
LDCS HAVE TOO FEW RESOURCES TO PARTICIPATE EFFECTIVELY
IN ARBITRATIONS. ECUADOR EMPHASIZED ICJ WILL ONLY GAIN
ACCEPTANCE OF LDCS WHEN CERTAIN AMENDMENTS ARE MADE TO
ITS STATUTE AND METHOD OF SELECTION, AND SUPPORTED
ASSIMILATING SPECIAL COMMISSIONS WITHIN TRIBUNAL
SYSTEM. ATTACK ON SPECIAL PROCEDURES FOCUSED ON PROBLEMS
OF CONTRADICTORY JURISPRUDENCE, APPELLATE AND OVERLAPPING
JURISDICTION, INTERPRETATION AND APPLICATION INTER-
RELATIONSHIP, AND DELAYS WHILE GOING TO MORE THAN ONE
FORUM FOR DISPUTES. BRAZIL MADE A SHORTER STATEMENT ALONG
SIMILAR LINES IN A MORE CONCILIATORY TONE, ADDING ITS SCEP-
TICISM THAT ROLE OF SPECIALIZED AGENCY SECRETARY GENERALS
IN ANNEX II IS APPROPRIATE AND POINTING TO SIMILARITIES
BETWEEN THOSE PROCEDURES AND ARBITRATION.

3. SWITZERLAND EXPRESSED SCEPTICISM ON PROLIFERATION
OF BODIES AND IN PARTICULAR CREATION OF NEW LOS TRIBUNAL.

4. DEBATE CONTINUES. PLENARY SHORTER TODAY DUE TO
ROOM SCHEDULING DIFFICULTIES.
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